

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Lempert, et. Al. Analyst: Marion Mann DeJong Bill Number: AB 1063

Related Bills: AB 2441 Telephone: (916) 845-6979 Amended Date: 06/30/98

Attorney: Doug Bramhall

Sponsor:

**SUBJECT:** Manufacturers' Investment Credit/Qualified Property Includes Computers & Peripheral

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 11, 1998 STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would add manufacturers of custom or prepackaged computer software (involved in activities described in Standard Industrial Classification (SIC) codes 7371 to 7373) to the Manufacturers' Investment Credit (MIC).

### SUMMARY OF AMENDMENT

The June 30, 1998, amendments made the following changes:

- deleted the provisions making changes to the Sales and Use Tax Laws.
- modified the definition of "qualified property" to specify that computers and peripheral equipment must be primarily used to develop or manufacture prepackaged software or custom software prepared to the special order of the purchaser who uses the program to produce and sell or license copies of the program as prepackaged software.
- deleted the provisions allowing a small business involved in specified computer activities to claim the MIC on that portion of costs which could be expensed under Section 179 of the Internal Revenue Code (IRC).
- deleted redundant language (computers and computer peripheral equipment were defined twice under qualified property).

These amendments addressed the policy and technical considerations in the department's analysis of the bill as amended June 11, 1998. Except for the Effective Date, Legislative History and the current law discussion of Specific Findings, the department's prior analysis is replaced with the following.

### Board Position:

<input checked="" type="checkbox"/> X	S	_____	NA	_____	NP
_____	SA	_____	O	_____	NAR
_____	N	_____	OUA	_____	PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

7/16/98

#### SPECIFIC FINDINGS

**This bill** would include specified lines of business relating to computer programming and computer software in the definition of "qualified taxpayer" under the MIC. These activities are described in SIC Codes 7371 (Computer Programming Services), 7372 (Prepackaged Software) and 7373 (Computer Integrated Systems Design).

**This bill** also add to the definition of "qualified property" computers and computer peripheral equipment (as defined in IRC Section 168(i)(2)(B)) that is used in computer businesses described in SIC Codes 7371 to 7373 primarily for the development and manufacture of prepackaged software or custom software prepared to the special order of the purchaser who uses the program to produce and sell or license copies of the program as prepackaged software. The value of any capitalized labor costs directly allocable to the construction or modification of such property would also be included in "qualified property." Qualified property for taxpayers involved in computer businesses described in SIC Codes 7371 to 7373 would not include any Section 1245(a)(3)(A) tangible personal property (e.g., shrink wrap machines, fork lifts, etc.) other than computers and computer peripheral equipment.

#### Implementation Considerations

Implementation of this bill would occur during the department's normal annual system update.

#### FISCAL IMPACT

##### Departmental Costs

This bill would not significantly impact the department's costs.

##### Tax Revenue Estimate

This bill is estimated to impact PIT and B&CT revenues as shown in the following table.

Fiscal Year Cash Flow Taxable Years Beginning After January 1, 1998 Enactment Assumed After June 30, 1998 \$ Millions			
1998-99	1999-00	2000-01	2001-02
(\$6)	(\$7)	(\$8)	(\$9)

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

##### Tax Revenue Discussion

The data and methodology used in the analysis of this bill as amended June 11, 1998, still apply with the following modifications. The original estimate was reduced by the ratio of employment in SIC 7371 over the sum of employment in SIC 7371 and 7372 as reported by the National Bureau of Labor Statistics for the nation as a whole. This assumes that California is not

materially different from the nation with respect to the relative employment ratios. And this assumes that the ratio of investment amounts is reflected in the employment ratios. Finally, it was assumed that 10% of the activity in SIC 7371 (custom software development) would qualify as "custom software prepared to the special order of the purchaser who uses the program to produce and sell or license copies of the program as prepackaged software."

BOARD POSITION

Support.

The Franchise Tax Board voted at its April 14, 1997, meeting to support this bill as amended April 9, 1997.